

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

Misael Guzman	§	
Petitioner,	§	
	§	
v.	§	C.A. NO. C-06-23
	§	
Bureau of Immigration and Customs	§	
Enforcement and Douglas Dretke,	§	
Respondents.	§	


MEMORANDUM OPINION AND ORDER OF DISMISSAL

On July 7, 2006, the United States Magistrate Judge filed her Memorandum and Recommendation in this cause (D.E. 23). Objections were timely filed (D.E. 24). Petitioner seems to object on principle to every substantive statement made in the Memorandum and Recommendation, however, it is unclear what outcome petitioner seeks to gain through his objections. In fact, some of petitioner's "objections" are actually in alignment with the Magistrate Judge's recommendations. For instance, the Magistrate Judge recommends that the Court dismiss petitioner's petition without prejudice, in part because the Court is without jurisdiction to hear this matter. Among his objections, petitioner "objects and now insists that this Court lacked the subject matter jurisdiction over the parties and will file a separate action under Rule 60(b)(4) motion seeking to set aside and vacate the judgment as void, but only after the petitioner first files his direct appeal." Petitioner even objects to attempts by the Magistrate Judge to assist in characterizing the type of remedy he seeks. Nonetheless, the fact remains that

petitioner failed to exhaust his state court remedies as required by 28 U.S.C. § 2254(b) and (c) and the Court lacks jurisdiction over a petition filed under 28 U.S.C. § 2241 attacking a removal order. 8 U.S.C. §§ 1252(a)(5), (g). Therefore, having reviewed *de novo* the Magistrate Judge's memorandum and recommendation and the pleadings on file, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, respondents' motions to dismiss without prejudice (D.E. 19, 20) are granted. Petitioner's motion for a stay of deportation (D.E. 22) is denied.

ORDERED this 10 day of August, 2006.


HAYDEN HEAD
CHIEF JUDGE